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The New-Haven. Citizens

MEMORIAL TO THE PRESIDENT,

PROTESTING AGAINST

THE USE OF THE UNITED-STATES ARMY TO ENFORCE THE
BOGUS LAWS OF KANSAS;

THE ANSWER OF PRESIDENT BUCHANAN;

AND

THE REPLY OF THE MEMORIALISTS.

[NOTE. — This MEMORIAL, with the REPLY and REJOINDER, involve principles altogether too important to be allowed to pass away as a mere newspaper controversy. For this reason, the whole is here presented for gratuitous circulation. It may aid the reader to judge of the justice of enforcing these laws, to state the vote by which the so-called bogus Legislature, which passed them, was chosen, as reported to Congress by the Commission sent by them to Kansas for the purpose of inquiring into the facts of the case.

The whole number of Proslavery votes was 5,427; Free-state, 791. Of these, only 1,410 were legal; 4,908 were illegal. There is no pretence that the Free-state men cast any illegal votes; consequently this leaves but 619 legal votes given for this bogus Legislature. It also shows, that, although a large portion of the Free-state voters were driven from the polls by the army of invasion from Missouri, they yet had a plurality of 172 of the legal votes cast, and were thus legally entitled to the Legislature. Notwithstanding this fact, as well as the additional fact that the Constitution of the United States provides, in Article 4, Section 4, that "the United States shall guarantee to every State a republican form of government, and shall protect each of them against invasion," we find the army of the United States made use of, not to protect a State or Territory from invasion, but to support the invaders.]

MEMORIAL.

THE undersigned, citizens of the United States, and electors of the State of Connecticut, respectfully offer to your Excellency this their Memorial. The fundamental principle of the Constitution of the United States, and of our political institutions, is, that the people shall make their own laws, and elect their own rulers. We see with grief, if not with astonishment, that Gov. Walker, of Kansas, openly represents and proclaims that the President of the United States is employing, through him (Walker), an army, one purpose of which is to force the people of Kansas to obey laws not their own, nor of the United States, but laws which — it is notorious, and established upon evidence — they never made, and rulers they never elected. We represent, therefore, that, by the foregoing, your Excellency is openly held up and proclaimed, to the great derogation of our national character, as violating in its most essential particular the solemn oath

1857

which the President has taken to support the Constitution of this Union. We call attention further to the fact, that your Excellency is in like manner held up to this nation, to all mankind, and to all posterity, in the attitude of "levying war against a portion of the United States," by employing arms in Kansas to uphold a body of men, and a code of enactments, purporting to be legislative, but which never had the election nor sanction nor consent of the people of the Territory. We earnestly represent to your Excellency that we also have taken the oath to obey the Constitution; and your Excellency may rest assured that we shall not refrain from the prayer that Almighty God will make your administration an example of justice and beneficence, and with his terrible majesty protect our people and our Constitution.

THE PRESIDENT'S REPLY.

WASHINGTON, Aug. 15.

GENTLEMEN, — On my recent return to this city, after a fortnight's absence, your Memorial, without date, was placed in my hands through the agency of Mr. Horatio King, of the Post-office Department, to whom it had been intrusted. From the distinguished source whence it proceeds, as well as its peculiar character, I have deemed it proper to depart from my general rule in such cases, and give to it an answer. You first assert that the "fundamental principle of the Constitution of the United States, and of our political institutions, is, that the people shall make their own laws, and elect their own rulers." You then express your grief that I should have violated this principle, and, through Gov. Walker, have employed an army, "one purpose of which is to force the people of Kansas to obey laws not their own, nor of the United States, but laws which — it is notorious, and established upon evidence — they never made, and rulers they never elected;" and, as a corollary from the foregoing, you represent that I am "openly held up and proclaimed, to the great derogation of our national character, as violating in its most essential particulars the solemn oath which the President has taken to support the Constitution of this Union." These are heavy charges, proceeding from gentlemen of your high character, and, if well founded, ought to consign my name to infamy. But, in proportion to their gravity, common justice, to say nothing of Christian charity, required, that, before making them, you should have clearly ascertained that they were well founded. If not, they will rebound with withering condemnation upon their authors. Have you performed this preliminary duty towards the man, who, however unworthy, is the Chief Magistrate of your country? If so, either you or I are laboring under a strange delusion. Should this prove to be your case, it will present a memorable example of the truth that political prejudice is blind even to the existence of the plainest and most palpable historical facts. To these facts let us refer. When I entered upon the duties of the Presidential office, on the 4th of March last, what was the condition of Kansas? This Territory had been organized under the Act of Congress of the 30th of May, 1854; and the Government, in all its branches, was in full operation. A Governor, Secretary of the Territory, Chief Justice, two Associate Justices, a Marshal, and District Attorney, had been appointed by my predecessor, by and with the advice and consent of the Senate, and were all engaged in discharging their respective duties. A code of laws had been enacted by the Territorial Legislature; and the Judiciary were employed in expounding and carrying those laws into effect.

It is quite true that a controversy had previously arisen respecting the validity of the election of the members of the Territorial Legislature, and of the laws passed by them; but, at the time I entered upon my official duties, Congress had recognized this Legislature in different forms, and by different enactments. The delegate elected to the House of Representatives under a Territorial law had just completed his term of service on the day previous to my inauguration. *In fact, I found the Government of Kansas as well established as that of any other Territory.* Under these circumstances, what was my duty? Was it not to sustain this Government; to protect it from the violence of lawless men, who were determined either to rule or ruin; to prevent it from being overturned by force; in the language of the Constitution, to "take care that the laws be faithfully executed"?

It was for this purpose, and for this alone, that I ordered a military force to Kansas, to act as a *posse comitatus* in aiding the civil magistrate to carry the laws into execution. The condition of the Territory at the time, which I need not portray, rendered this precaution absolutely necessary. In this state of affairs, would I not have been justly condemned had I left the Marshal, and other officers of a like character, impotent to execute the process and judgments of the courts of justice established by Congress, or by the Territorial Legislature under its express authority, and thus have suffered the Government itself to become an object of contempt in the eyes of the people? And yet this is what you designate as forcing "the people of Kansas to obey the laws, not their own, nor of the United States," and for doing which you have denounced me as having violated my solemn oath.

I ask, What else could I have done, or ought I to have done? Would you have desired that I should abandon the Territorial Government, sanctioned as it had been by Congress, to illegal violence, and thus renew the scenes of civil war and bloodshed which every patriot in the country had deplored? This would indeed have been to violate my oath of office, and to fix a damning blot on the character of my administration. I most cheerfully admit that the necessity for sending a military force to Kansas to aid in the execution of the civil law reflects no credit upon the character of our country. But let the blame fall upon the heads of the guilty. Whence did this necessity arise? A portion of the people of Kansas, unwilling to trust to the ballot-box, — the certain American remedy for redress of all grievances, — undertook to create an independent government for themselves.

Had this attempt proved successful, it would, of course, have subverted the existing government prescribed and recognized by Congress, and substituted a revolutionary government in its stead. This was usurpation of the same character as it would be for a portion of the people of Connecticut to undertake to establish a separate government within its chartered limits for the purpose of redressing any grievance, real or imaginary, of which they might have complained against the legitimate government. Such a principle, if carried into execution, would destroy all lawful authority, and produce universal anarchy. I ought to specify more particularly a condition of affairs, which I have embraced in general terms, requiring the presence of a military force in Kansas. The Congress of the United States had most wisely declared it to be the true intent and meaning of this act, — the act organizing the Territory, — not to legislate slavery into any Territory, nor to exclude it therefrom, but to leave it to the people thereof, perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States. As a natural consequence, Congress has also prescribed by the same act, that, when the Territory of Kansas shall be admitted as a State, it shall be received into the Union with or without slavery, as their Constitution may prescribe at the time of their admission. Slavery existed at that period, and still exists, in Kansas, under the Constitution of the United States.

This point has at last been decided by the highest tribunal known to our laws. How it could ever have been seriously doubted is a mystery. If a confederation of sovereign States acquire a new Territory at the expense of their common blood and treasure, surely one set of the parties can have no right to exclude the other from its enjoyment, by prohibiting them from taking into it whatsoever is recognized to be property by a common Constitution. But when the people — the *bona fide* residents of such Territory — proceed to frame a State Constitution, then it is their right to decide the important question for themselves, whether they will continue, modify, or abolish slavery. To them, and to them alone, does this question belong, free from all foreign interference. In the opinion of the Territorial Legislature of Kansas, the time had arrived for entering the Union; and they accordingly passed a law to elect delegates for the purpose of framing a State Constitution. This law was fair and just in its provisions. It conferred the right of suffrage upon every *bona fide* inhabitant of the Territory; and, for the purpose of preventing fraud, and the intrusion of citizens of near or distant States, most properly confided this right to those who had resided therein three months previous to the election. Here a fair opportunity was presented for all qualified resident citizens of the Territory, to whatever organization they might have previously belonged, to participate in the election, and to express their opinions at the ballot-box on the question of slavery; but numbers of lawless men still continued to resist the Territorial Government. They refused either to be recognized or vote; and members of the Convention were elected legally and properly, without their intervention.

The Convention will soon assemble to perform the solemn duty of framing a Constitution for themselves and their posterity; and, in the state of incipient rebellion which still exists in Kansas, it is my imperative duty to employ the troops of the United States, should this become necessary, in defending the Constitution against violence whilst framing the Constitution, and in protecting the *bona fide* inhabitants qualified to vote under the provisions of this instrument in the free exercise of the rights of suffrage, when it shall be submitted to them for their approbation or rejection. I have entire confidence in Gov. Walker that the troops will not be employed except to resist actual aggression, or in the execution of the laws, and then not until the power of the civil magistrate shall prove unavailing. Following the wise example of Mr. Madison towards the Hartford Convention, illegal and dangerous combinations, such as that of the Topeka Convention, will not be disturbed, unless they shall attempt to perform some act which will bring them into actual collision with the Constitution and the laws; and, in that event, they shall be resisted and put down by the whole power of the Government. In performing this duty, I shall have the approbation of my own conscience, and, as I humbly trust, of my God.

I thank you for the assurance that you will not refrain from prayer that the Almighty God will make my administration an example of justice and beneficence. You can greatly assist me in arriving at this blessed consummation, by exerting your influence in allaying the existing sectional excitement on the subject of slavery, which has been productive of much evil, and no good; and which, if it could succeed in attaining its object, would ruin the slave as well as his master. This would be a work of genuine philanthropy.

Every day of my life I feel how inadequate I am to perform the duty of my high station, without the continued support of Divine Providence; yet, placing my trust in him, and in him alone, I entertain a good hope that he will enable me to do equal justice to all portions of the Union, and thus render me an humble instrument in restoring peace and harmony among the people of the several States.

Yours very respectfully,

JAMES BUCHANAN.

REPLY TO THE PRESIDENT.

TO HIS EXCELLENCY JAMES BUCHANAN,

President of the United States.

IN July last, a number of citizens of Connecticut addressed to you, as Chief Magistrate of this nation, a Memorial on the affairs of Kansas. To this you replied, under date of Aug. 15, 1857, in a manner which shows that you misunderstood, to some extent, the ground taken by the Memorialists; for we would not impute to you the intention to misrepresent them. As you have thought proper to lay the Memorial and Reply before the public, a large part of the Memorialists have conferred on the subject, and have felt themselves compelled again to address you. We would remark, then, *that the main facts alleged in that Memorial are either passed over without denial, or are explicitly avowed in your Reply.*

These facts are two: First, "That the fundamental principle of the Constitution of the United States, and of our political institutions, is, that the people *shall make their own laws, and elect their own rulers.*" Secondly, "That Gov. Walker, of Kansas, openly represents and proclaims, that the President of the United States is employing, through him (Walker), an army, one purpose of which is to force the people of Kansas to obey laws which are not their own, nor of the United States, but laws which—it is notorious, and established upon evidence—*they never made, and rulers they never elected.*" As to these two facts,—the material facts alleged by your Memorialists, and which chiefly require vindication from you,—they say that they find *no denial* of them in your Reply. They do not say that you have attempted no *vindication* of your acts and doings through Gov. Walker; but only, that they can find in your Reply no plain or explicit denial of the facts referred to, not even what they consider the shadow of a denial. These facts stand in the Memorial, then, *uncontradicted* by what you evidently consider a triumphant Reply. Why is this? Are these assertions, on which the whole subject at issue depends, untrue, and yet *no denial* of them,—not a word to *prove* them untrue? Without such denial, what can you expect your Memorialists and the country to believe and to say?—what, but that the facts which they allege are notorious and undeniable?

As to the allegation respecting the fundamental principle of the Constitution, your Memorialists hope that the time is remote when the enlightened citizens of this country will deny that principle; though party zeal, in its infatuation, may one day trample it in the dust; when, in sight of the ruin, Liberty and Religion in exile will together weep over the desecration.

YOUR FORMAL VINDICATION next demands notice.

Of this, your Memorialists are compelled to say, that, in their view, it is entirely groundless and unsatisfactory.

Resting it solely on what you call "the plainest and most palpable historical facts," you say, that, at the time of your inauguration, "you found, in fact, the government of Kansas as well established as that of any other Territory." You then ask, "Was it not my duty to sustain this government; to prevent it from being overturned by force; in the language of the Constitution, 'to take care that the laws be faithfully executed'?" You then add, "It was for this purpose that I ordered a military force to Kansas, to act as a *posse comitatus* in aiding the civil magistrates to carry the laws into execution." Here, then, is the distinct admission and declaration, on your part, that you ordered a military force to Kansas for the purpose of sustaining its territorial government, and of enforcing

its territorial laws. So far, then, in respect to one matter of fact, you admit the assertion of your Memorialists.

Your vindication, therefore, rests upon the assertion that there was, in fact, a government in Kansas, — such a government as it was your duty to sustain. The essential question, on which the whole controversy turns, is thus raised. It is simply this: *Was there a government, or were there laws, in Kansas, in the just, proper, and authorized meaning of the language, "when you entered upon the duties of the Presidential office on the 4th of March last"?*

If this can be proved to be true, your Memorialists will know something which they have yet to learn. If it can be proved not to be true, "it will present a *memorable* example of the truth, that political prejudice is blind even to the existence of the plainest and most palpable of historical facts." Nor is this all: it will show that you ordered an army to Kansas to sustain a so-called government which is *not* a government, and laws which are not laws.

Here your Memorialists take the position, that NOTHING CAN BE TRULY GOVERNMENT OR LAW WHICH HAS NO AUTHORITY; and that NOTHING SHOULD BE TREATED AS GOVERNMENT OR LAW WHICH PRESENTS NO EVIDENCE OF AUTHORITY.

Can any thing which tramples under foot all human rights, and is a known outrage upon our Constitution and our political institutions, whatever be its name or form, be justly regarded as government or law having authority under our Constitution? Can such an outrage be clothed with authority by a President, Senate, Congress, or a whole Congress of Presidents? Can usurpation beget a valid government or law, or impart that right to govern which implies an obligation to obey? Its might may make it a matter of prudence to avoid its wrath by submission; but can usurpation create an obligation to obey, when none exists?

Suppose the Great Mogul, or any other tyrant, had established the same so-called government and laws of Kansas by the same means by which, as all the world knows, they were established, — by invasion and arms: would any citizens of the United States call them "government and laws," except in derision and with loathing? Is a bogus government, government? Are bogus laws, laws? Is this "government established," and are these "laws enacted," and yet known to possess no other or higher authority than that derived from BORDER RUFFIANS? Are "we, the people of the United States," to be stultified into the belief of such a dogma? For that result, wait at least for the more absolute dominion of a tyrant.

Your Memorialists will now present what they consider the fundamental error of your Reply. In their view, in recognizing the territorial government and laws of Kansas as a genuine government and valid laws, you have perverted the general principle upon which you rest your vindication, and have violated its essential spirit and meaning.

That general principle may be thus stated: When rules of action, claiming to be valid laws, present, on the first aspect, evidence that they proceed from a rightful law-making power, it is the duty of the people and the executors of law to recognize them as authoritative. To this, as a *general* principle, your Memorialists subscribe. It is the only means of giving practical authority to law, and of preventing violence and anarchy; nor do they yield to any man or class of men a higher estimate of its importance, or a firmer determination to adopt and defend it, than themselves cherish. But to say that ALL governments and ALL laws, claiming to be valid, must be recognized, executed, and obeyed as such, is as preposterous as to deny the general principle itself. To mistake the *general* rule for an *universal* rule, the conditional for an unconditional principle, must lead to false reasoning and to practical conclusions of the most dangerous character. This, in the view of your Memorialists, who believe that none are too wise or good to err, is what you (they trust, inadvertently) have done.

In recognizing the territorial government and laws so authoritative, have you not violated the whole spirit and meaning of the general principle laid down? Have you not wholly disregarded the essential condition, that the only government which it is your duty to sanction must present some *evidence* of rightful authority? You recognize the territorial laws as valid. What is this but to act upon the principle, that when the so-called government and laws come before you, without the shadow of evidence of their proceeding from a rightful law-making power, but with the most decisive and overwhelming proof that they have originated in a palpable and violent usurpation, that even then, even in a case so flagrant, it is your duty to sustain and execute them, even by the armies of the United States?

Your Memorialists are here anxious to call your attention to an important distinction, which you appear entirely to overlook. They readily concede, that, in cases of no unfrequent occurrence, one government may properly recognize another as authoritative, or as a government *de facto*, on a very low degree of evidence, without rigidly investigating its authority, or even considering its origin. For example, the Government of Great Britain, when Louis Napoleon was enthroned in France by the army of the empire, and with the acquiescence and consent of the people, had *no right* to interfere with a government thus "established." The British, as a *foreign* government, had no right of question or control in the matter. But does it follow, because the Government of Great Britain had no right to interfere with what was an undeniable usurpation in a foreign kingdom, that the Government of the United States had no right, and were not *bound*, to interpose and put down, in one of their *own* Territories, a ruffian usurpation from Missouri? In respect to France, there was reason enough why other nations, for purposes of *national* intercourse, should recognize its present government as an "established government." But is not the Constitution of the United States the supreme law of the land? Has not our Government the right to authorize and regulate the government of its own Territories? Can Congress or the President abandon this right, or the duty which arises from it? If this Government owes any duty whatever to the country, is it not most sacredly bound to protect both State and Territory against the imposition of a government and laws by a ruffian and violent invasion from another State? Your Memorialists, then, strenuously insist that the only principle on which recognition can ever be justified is that there is some evidence, be it more or less, that the government **PROCEEDS FROM AN AUTHORIZED LAW-MAKING POWER.** And they further insist, that when such government is within our own borders, under the supervision and control of the Federal Government, and claiming to derive all its sanction from a law of Congress, **THE EVIDENCE OF ITS AUTHORITY MUST BE CLEAR AND DECISIVE.** But how is it when there is no such evidence? How is it when all the evidence is strong against its authority? How is it when there is the best evidence the case admits of, even decisive, unquestionable proof, that the so-called government has no other authority than ruffianism and outrage? Is such a "government" to be practically recognized, and that, too, within the limits of our own republic? There surely may be cases in which it would be gross wrong to sustain a Territorial Government which has no authority. And now, we ask, what government could you refuse to sustain, if not one that had its origin **SOLELY** in a violent invasion of ruffians from another State? This fact, in the present case, *can* be denied; so can God, when his sun shineth in the heavens.

This usurped Government cannot be sanctioned by the law of Congress authorizing the formation of a Territorial Government. That law declares that "the true intent and meaning of this act is to leave the people (of the Territory) perfectly free to regulate their domestic institutions in their own way, subject only to the Constitution of the United States." To **THE PEOPLE**, and them alone, is

expressly gives the right to make their own government and laws. Here is no sanction, no authority, for a government not framed by the people, but founded solely on invasion. Can this law enthrone in rightful sovereignty bandits from a neighboring State? As well say that it authorized them to seize every acre of Kansas for their own use and behoof. It can as well deprive the people of one right as of another, of all rights as of one. It is said "that Congress authorized the establishment of a government." Yes; but by the people, not by marauders. It is further said, "that we must adhere to a general principle." What principle? Why, as your whole argument implies, "that a government established" is a government to be recognized. We deny such a government in Kansas. Beware how you stretch a general principle, and make it *universal*. Though one may safely pass the Niagara River at all other points and places, none but a madman would attempt the passage on the verge of the cataract!

Your Memorialists urge, therefore, that the so-called Government of Kansas can claim no sanction from the Act of Congress. The evidence was all against it, — evidence known to the whole civilized world, apparent on the very face of the transaction, and which must have challenged your attention long before you had taken the oath of office. The very fact that the so-called Government required support from the Federal Executive was the strongest evidence that it did not come from the people, and had no lawful authority. This shows, at once, that this Government was not, in the lowest sense, what you call an "established government;" for it shows that it was not, and could not be, established without a United-States army; and therefore the army was sent, not, as you pretend, to *sustain* "an established government," but for the purpose of *establishing* what was not established, — a government of ruffian authority.

Nor could you have been ignorant that the House of Representatives had sent a special Committee of Investigation to the Territory, and thus acknowledged and confirmed the propriety of a strict inquiry *into this very case*. On the report of that Committee, the House of Representatives authoritatively declared that the Government of Kansas was established by the terror of bowie-knives and revolvers, and that it had been proved to have not a shadow of authority. And here your Memorialists ask, whether a plainer case or stronger evidence can well be imagined. When, if not in such a case, ought the President to denounce a government as spurious, and to refuse to aid or sustain it? The laws of Congress trampled in the dust; the invaders from Missouri proved, beyond a cavil, to be the only authors of this "government," — is it not an outrageous wrong to hold Kansas subject to such usurpation by a United-States army? The fires of ruffianism still burn there, smothered in the dreariness of their own desolation, and ready to be rekindled in their fury by the slightest movement for liberty and right on the part of the people; while the echo of their sufferings ever rings in the ears of our National Executive.

Let it be remembered, that this government comes to the people of Kansas not with the sanction of gray antiquity; nor yet has it come from any law of Congress as its true and proper source, nor yet from the people of the Territory, nor yet from being even fully established. It is of recent origin and formation. It dates only from the imposition of it, by the ruffianism from Missouri, upon the people who abhor and disown it. Every man who has, from the first, known its *existence*, has known its *origin* and its nature. Let it, then, be taken as it is, — as it is in its origin and its nature. And what is it? A code of laws oppressive, unjust, cruel, outrageous, without a parallel, created, imposed, by the usurpation of ruffians from Missouri. And these laws, and this "government," without the least evidence to establish their authority, but with the most abundant proofs to the contrary, you are proposing to sustain and execute by the United-States army. You speak of "numbers of lawless men," &c.; alluding, evidently, to the Topeka Convention. Be it so, for the sake of the argument; but how does one

“lawless attempt” to establish a government justify or palliate another lawless attempt for the same purpose?

Further: in your Reply, you seem to your Memorialists to concede, in all its truth and force, the principle which they maintain. Thus you unequivocally and justly assert, that “for a portion of the people of Connecticut to undertake to establish a separate government within its chartered limits for the purpose of redressing any grievance, real or imaginary,” would be usurpation; and add, that “such a principle, carried into execution, would destroy all lawful authority, and produce universal anarchy.” Your Memorialists fully subscribe to this doctrine. But what is the act which you call usurpation in the case supposed? What is it but setting up a government claiming authority, and laws demanding execution, which, in the nature of the case, can claim no authority, and are opposed to existing authority? If you would call this “usurpation” in Connecticut; if it would “destroy all legal authority, and produce universal anarchy,”—what is this but the very act which Missouri invaders have perpetrated in Kansas? There was government in Kansas,—government under the Constitution of the United States. Law was there also,—a law for the organization of government BY THE PEOPLE OF THE TERRITORY. Right, too, was there,—the inviolable right of the people to make their own laws, and elect their own rulers. In opposition to the existing government, in violation of that existing law, trampling upon those inherent rights, Missouri invaders have set up a bloody tyranny, which has, in fact, produced anarchy and bloodshed. If you condemn the one, condemn the other also. Your Memorialists have nothing to ask of you in this matter but consistency of principle. Condemn the same conduct in both cases: put down the usurpation in Kansas, and the friends of truth, justice, and of the country, would rejoice.

Your Memorialists again ask, whether a case can well be imagined to which the name of ‘authoritative government’ could be applied with more palpable impropriety and untruth than to the Territorial Government of Kansas. Might not even political shamelessness blush to call it by such a name? Was not the true and only character of this government known to you and the whole country before your inauguration, and during the Presidential canvass? Did you not, with the full knowledge of it, accept your nomination, which you were free to decline, and thus avoid the responsibility of executing these nefarious laws? or did you suppose that the oath of office would exempt you from this responsibility? You admit the constitutional duty of the President to “take care that the laws be faithfully executed.” And now, without holding you responsible for any acts of your predecessor,—for which you are not willing to be responsible, and have not fully sanctioned,—your Memorialists would ask, Was there no law to be taken care of, by preventing a well-known projected invasion of the political rights of the people of Kansas; no law to be taken care of afterward, by expelling the invaders from the Territory; no law to be taken care of in respect to the thefts, the robberies, the incendiarism, and the murders that were perpetrated; no law to be taken care of in the mode of civil administration adopted by Federal officials; no law to be taken care of in not appointing officials whose hands were red with the innocent blood, or in removing bribed and perjured judges; no law to be taken care of by securing to the people of the Territory that fundamental right of the Constitution,—a right guarded by an express law of Congress,—the right “to make their own laws, and elect their own rulers;” no law to be taken care of in giving to Congress information at least of the state of the Union, and especially in recommending necessary and expedient measures for the relief of the people of Kansas from the injustice, the oppression, and the barbarities to which they were subjected? Had, then, Great Britain any such laws to take care of in France, when the present Emperor was enthroned there by usurpation, as those which our Government, our President, was bound to take care of in our own

Territory? In utter neglect of these laws, have you not, with a full knowledge of the nature of this usurpation, its origin, its progress, its violation of Constitution and of fundamental rights, its violence, its rapine, its massacres, its conflagration, and its shame, sustained at every step its authors and abettors to this hour? Have you not sanctioned such conduct by placing or retaining prominent leaders therein in official stations?

Again: are the troubles and calamities of Kansas the legitimate results of the wise administration, of the true and right working in such an exigency, of our National Government? — the most perfect specimen of human government the world has seen; to our own admiration, the perfection of excellence. Surely such results bespeak some derangement, some disturbing force, in the evolutions of a machinery so fitted to do good, so powerful to its high design.

But if your example in administration, and that of your predecessor in office, are to be followed in future, whenever similar cases shall occur; if every usurpation of power, when it has gained a temporary success, is thenceforth to be backed by the whole power of the Federal Government, and forced upon the indignant people on whom, by fraud or violence, it had imposed itself, — where will the end be? How often will such crises actually occur, resulting from the very nature of our Government, with such a principle in its administration to originate and foster them? What a temptation to party-spirit, thus unrestrained, emboldened, upheld by the Government of the nation, would be furnished to carry out its schemes and its triumphs in violence and bloodshed! What shall hinder? Let the administration of the Government change hands, — and such changes may be frequent, — how surely would the same contests be re-enacted by way of reprisals for past injuries and oppressions! How would such contests be repeated in Territories and in States, till to your own mind would be revealed, in the very principle which you assume, a weakness in our Government foretelling its speedy dissolution!

Of the particular considerations by which you have endeavored to support the fundamental principle of your Reply, the first which demands notice is, that, "when you entered upon your official duties, Congress had recognized the Legislature (of Kansas) in different forms, and by different enactments." Had you informed your Memorialists what these "different enactments" were, they might have been made the subject of distinct examination. As it is, they can only say that they know of no "forms or enactments" of Congress, which could be binding on you as authoritative, of which you had reason even to regard as evidence of the validity of that Legislature. Do you refer to the act by which the usual appropriations from the treasury were made? Every one knows in what manner and for what reason that act was passed, and that many who voted for it regarded, and still regard, the Territorial Legislature as downright usurpation; nor had they any suspicion that they were recognizing its validity. How this bill can invest an act of usurpation with authority, your Memorialists are unable to discover. What if the Legislature of Connecticut had, under the excitement of party strife, even by a formal act, recognized the usurpation which you have supposed: might not the Governor justly fall back upon his own official prerogative, call out the militia, and suppress the rebellion? If he would be bound to recognize such an usurpation as government having authority, when could he ever suppress it without himself becoming a rebel against the very authority which he recognizes? Apply this illustration to the President of the United States, and you will see that the fundamental principle of all your reasoning is absolutely suicidal, and thus renders nugatory your entire vindication. Did not President Jackson, on his own official responsibility as National Executive, set at defiance alike the power and the authority of a "sovereign State"? And can a Territorial Government rank with an independent State sovereignty? Can border ruffianism, by any act of Congress, become entitled to respect and support, as a rightful law-making power from the President of the United States? This

case is too flagrant; the facts are too notorious. No truly independent, self-relying President, who understood his official prerogative, and his duty under the Constitution, would have hesitated to disregard even a direct act of Congress so tyrannical and oppressive, and appeal to his country and the world for his vindication.

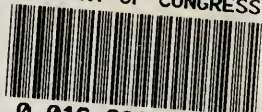
But no such trying emergency was here presented. With the solemn decision of the House of Representatives, after long investigation, that the Legislature of Kansas had no authority, and that its laws were *no* laws; with that direct, positive, and unimpeachable evidence before you, — your Memorialists cannot but express their surprise that you have relied upon your construction of indirect, inconclusive acts of that same body as *evidence* of the authority of that Legislature. They know of no rule of law by which you can set up constructive, inferential evidence against direct and positive evidence from the same source. But this proof you pass over in utter silence.

Alluding to the condition of the Territory, you speak of the course which you adopted as “absolutely necessary;” and ask, whether “you would not have been justly condemned had you left” what you assume to be *the government* and its administration “impotent,” and thus have suffered it to become an object of contempt in the eyes of the people. Our first reply to this view of the case is as before: There was no (Territorial) government in Kansas to be executed, as you suppose. And again: we say, the usurped government ought to have been rendered *impotent*, and to have become an object of contempt in the eyes of the people, as it has become. But further: Congress has passed a law for the establishment of a government in this Territory, with this formal and positive explanation, that the people (in the Territory) be left perfectly free to form and regulate their domestic institutions in their own way. Why, then, could not a Governor of Kansas have been appointed at any time, acting under your authority, and with an army under his control, who would have suppressed all internal violence and contention, and “left the people free to form and regulate their domestic institutions,” &c., as well as employ the army to act the absurd and farcical part of a *posse comitatus*, to enforce, under your direction, territorial laws which had no pretence of authority? Without saying who were, or who were not, the responsible originators of the troubles in Kansas, can it be doubted that the President, long before this time, by the course now suggested, or some other, might have put an end to these troubles? Has he not power to “take care that the laws,” and, of course, that the law of Congress respecting Kansas, “be faithfully executed”?

You have introduced several topics into your Reply, as that of slavery, the decision of the Supreme Court in the case of Dred Scott, with others, on which your Memorialists have said nothing in their Memorial, and on which they intend to say nothing now, except to express their dissent from your opinions.

It is needless to prolong this discussion. Your whole vindication, if it has any ground, rests, in the view of your Memorialists, upon one palpably false assumption: That whatever claims to be a government *de facto*, without a pretence of its proceeding from any rightful law-making power, is entitled to your support. The world has not seen a usurpation which this principle would not sanction. If adopted in the administration of our Government, it must involve, sooner or later, its destruction.

Pardon now, if need be, the plain and respectful earnestness of your Memorialists in unfolding what they consider false principles in your positions on the present subject. They speak of no want of honesty in your opinions, nor of sincerity in your avowal of them; of no want of patriotism on your part, nor yet of that higher principle which God approves. They speak only of what they consider error in your reasonings, and of its consequences in political evils. They judge not the heart. They have not imputed to you any violation of your oath of



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office, as you have thought fit to charge. Their language is said, "By the *foregoing*, you are held up as violating," & spoken of is shown, by the connection, to be the *claim* of the President of the United States is employing, through him (Walker, an *agent*), the purpose of which is to force the people of Kansas to obey laws not their own, nor of the United States, but laws which—it is notorious, and established upon evidence—they never made, and rulers they never elected." This claim of Gov. Walker, if admitted by you in its full extent, and admitted on the ground of making the *general* principle mentioned above a *universal* one,—thus applying a mere rule of international law to the internal government of this country,—would, in our view, involve the most serious imputations upon any Chief Magistrate. But you had not at that time, so far as we are aware, given any public sanction to that claim; and the Memorial, therefore, did not contain the imputation you supposed.

The Memorialists have dwelt on the error referred to above, as they regard it, not merely on account of its fatal tendency, and the calamities which have actually resulted from it, but also because they are confident that you, in common with many of your honest fellow-citizens, have overlooked one essential principle in assuming that the ruffian usurpation in Kansas is "an established government." Be assured they intend to withhold no tribute due to your intellectual eminence or moral character. They believe, however, that many errors and misconceptions are compatible with the highest mental culture and intellectual ability.

Your Memorialists have spoken earnestly, because they deeply deplore the adoption of a principle which leads to the mal-administration of so perfect a system of government as that which our fathers, by their wisdom, their prayers, and their blood, have given to their posterity. They cannot believe in the *unapproachable* infallibility of their rulers under this system of true liberty; and, while they would honor them in the fear of God, they are confident that neither they, nor even "kings, have the right divine to govern wrong." They hope for the continuance of our National Government, and for its wise and effective administration in guarding the privileges and blessings it is so fitted to afford and perpetuate. They wait with hope for the emancipation of the nations, and of all men, by the light and power of the example of such a government. They trust that no unauthorized mode of its administration will cause it to fail of its design; and that you may yet see that in this respect one false principle, if adhered to, must prove a principle of weakness and decay,—a sure prelude to the end of all our greatness, happiness, and glory,—a death-spot in the tree of liberty, whose leaves, like those of the tree of life, are for the healing of the nations.

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